

USE VARIANCE APPLICATION

City of Cleveland Heights

Project Number _____
Date Submitted _____



Properties in the City of Cleveland Heights are governed by the City's Zoning Code. A property only may be occupied by land uses that are explicitly permitted by the Code in the Zoning District in which the property is located. Property owners wishing to use their land for a use not permitted by the Code must apply to the **Board of Zoning Appeals** (BZA) for a use variance. BZA must find and City Council approve that the applicant will suffer unnecessary hardship if strict compliance with the terms of the code is required. The applicant has the burden of demonstrating such hardship by clear and convincing evidence to **all seven (7) of the criteria listed on page 4 and 5**. BZA must find that all the listed factors apply.

BZA meetings are held on the third Wednesday of each month, with some adjustments for holidays, at 7:00 p.m., in City Council Chambers, on the second floor of City Hall, or virtually. **Applications are due on the third Wednesday of the preceding month** (see page 2 for this year's dates).

Contacting the Department of Planning & Development

Prospective applicants are strongly advised to consult with Planning & Development Department staff before submitting an application. Staff members will explain the process and make applicants aware of the regulations that apply to their projects.

If you have questions regarding the BZA or this application, please contact Planning & Development staff at 216.291.4878 or via email at bza@clevelandheights.gov.

Application Process

The following materials should be included with all applications:

- (1) **the completed application form** (13 copies);
- (2) **a written statement of hardship** (13 copies, see page 4);
- (3) **scale drawings in an 8-1/2-by-11 or 11-by-17 format, or, if necessary to maintain legibility, a larger format** (13 copies);
- (4) **proof of control of the property by ownership, option, or lease** (1 copy);
- (5) **signed Consent to Access Property form** (1 copy, page 6); and
- (6) **application fee:**
single, two-and three-family residential \$2,000;
all others \$3,500
(checks should be made payable to the City of Cleveland Heights).

The application may be dropped off in the dropbox outside of City Hall or mailed to: City of Cleveland Heights, Department of Planning & Development, 40 Severance Circle, Cleveland Heights, OH 44118. Digital copies of all materials should be transmitted via email to bza@clevelandheights.gov as well.

Public Hearing and Board of Zoning Appeals Review

At the Board of Zoning Appeals meeting, City staff will make a presentation summarizing the requested variance and zoning regulations. City staff may also present neighborhood and historical context. The applicant then will have the burden to demonstrate to BZA that strict compliance with the terms of the Code will result in the applicant suffering unnecessary hardship. The Code requires such hardship must be demonstrated by clear and convincing evidence as to all seven (7) of the criteria listed on page 3. Accordingly, the submitted application must address each factor and how it relates to the property. **An application that does not address each factor shall be considered incomplete and shall not be presented to BZA until complete.** Staff can provide samples, as needed.

Neighbors, who will be notified in advance of the meeting by mail, and other interested parties will have the opportunity to participate during the public-hearing portion of the BZA meeting. BZA may grant or deny the variance, or it may postpone making a decision to consider or seek additional information. It is the BZA's responsibility to make decisions based on the facts presented, within the framework of criteria set by the Zoning Code. Variances denied by BZA are not reviewed by City Council.

City Council Review

A use variance is granted and has effect only following approval by City Council. A certified copy of the finding of the BZA granting the use variance is filed with Council. The record before the BZA is provided to Council and a staff report summarizing the same shall be made before the Committee of the Whole. Council shall approve the variance if it finds that the applicant has demonstrated, by clear and convincing evidence, all the criteria set forth in Section 1115.07(e)(2), outlined on pages 4 and 5. If Council does not find that the applicant has demonstrated all of the criteria set forth in Section 1115.07(e)(2) to the Board by clear and convincing evidence, Council shall disapprove the action of the BZA. Council will state the specific reasons for such disapproval.

Other approvals

The granting of a variance does not imply approval of specific plans by the Building Department, Architectural Board of Review, or other City entities. Questions about building permits and regulations may be addressed to the Building Department at 216.291.4900.

BZA MEETING DATES FOR THE YEAR 2023

Meetings are held on the third Wednesday of each month at 7:00 p.m., unless otherwise indicated, and are held in City Council Chambers, on the second floor of City Hall or virtually. Applications are due by 5:00 p.m. on the third Wednesday of the previous month, unless otherwise indicated.

The applicant or the applicant's representative must be present at the meeting.

<u>Application deadline</u>	<u>Meeting date</u>
December 21, 2022	January 18
January 18	February 15
February 15	March 15
March 15	April 19
April 19	May 17
May 17	June 14
June 14	July 19
July 19	August 16
August 16	September 20
September 20	October 18
October 18	November 15
November 15	December 20
December 20	January 17, 2024

*Holiday-related date change

USE VARIANCE APPLICATION FORM

Please type or print clearly.

Calendar number _____

Date submitted _____

Contact information:

Applicant(s) _____

Address of subject property _____

Phone _____ e-mail address _____

Mailing address of applicant(s) _____

Applicant's representative, if any _____

Phone _____ e-mail address _____

Address of representative _____

Property owner, if different from applicant _____

Phone _____ e-mail address _____

Address of property owner _____

Brief summary of variance request (please attach complete Statement of Hardship):

Supporting documentation (check all that apply):

- Completed Application (13 copies)
- Detailed statement of practical difficulty (13 copies)
- Proof of ownership, option, or lease agreement (1 copy)
- Scale drawings (site plan; & floor plan if applicable) in an 8-1/2-by-11 **or** 11-by-17 format, or, if necessary to maintain legibility, a larger format (13 copies)
- Elevations, if applicable (13 copies)
- Signed Consent to Access Property form (1 copy)
- Application fee

I swear or affirm that the information in this application is true and correct to the best of my abilities.

Applicant's signature _____ Date _____

STATEMENT OF HARDSHIP

To obtain a use variance, an applicant must show, to the satisfaction of the Board of Zoning Appeals (BZA) that strictly adhering to the Zoning Code's limitations on the use of his or her property, would result in an "unnecessary hardship." To this end, a written statement of hardship must accompany an application for a use variance. **Please complete this Statement of Hardship, by addressing all seven (7) of the criteria listed below.** Additional documents may be submitted as further proof.

In deciding whether to grant a use variance, BZA must determine that all seven (7) of the following criteria are met by the proposed use of the property that is the subject of the use variance request:

A. Please explain why or how the property cannot be put to any economically viable use under any of the permitted uses in the zoning district:

B. The variance requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district. This/these condition(s) is/are:

C. The hardship condition is not created by actions of the applicant. The hardship condition is a result of:

D. The granting of the variance will not adversely affect the rights of adjacent property owners or residents; because

E. The granting of the variance will not adversely affect the public health, safety or general welfare; because

F. The variance will be consistent with the general spirit and intent of the Zoning Code; because

G. Please explain how the variance sought is the minimum which will afford relief to the applicant.

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The criteria listed above can be found in Subsection 1115.07(e)(2) of the Cleveland Heights Zoning Code.

CONSENT TO ACCESS PROPERTY

I, the undersigned responsible party (owner, occupant, tenant, or agent for the property owner) of the property described herein, do hereby consent to entry upon said property, at a reasonable time and to the extent necessary, by the City of Cleveland Heights and its officers, employees, and/or agents for the purpose of inspecting said property for compliance with the City's Zoning, Housing, and/or Building Codes. I further certify that I have authority to grant access to said property.

Property Address

Signature of Responsible Party

Name of Responsible Party (please print)

I am the: owner occupant tenant agent for property owner

Telephone Number

Date

**PLEASE NOTE THAT FAILURE TO CONSENT TO A SITE INSPECTION OF YOUR PROPERTY
MAY CAUSE DELAY IN YOUR APPLICATION AND/OR MAY CAUSE YOUR APPLICATION
TO BE CONSIDERED INCOMPLETE.**